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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

~~NOT~~  
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Applicant :	Robin R. Miles, et al.	Docket No. :	IL-10406
Serial No. :	09/737,542	Art Unit :	1641
Filed :	December 14, 2000	Examiner	K. Padmanabhan
For :	Impedance Measurements for Detecting Pathogens Attached to Antibodies		

CERTIFICATE OF MAILING UNDER 37 CFR 1.8(a)

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REQUEST FOR RECONSIDERATION

Commissioner for Patents  
Washington, D.C. 20231

Sir:

In response to the Office Action mailed on October 10, 2001, made final,  
kindly consider the following:

The 35 USC 102 Rejections

The rejections under 35 USC 102 as set forth in paragraphs 2-7 are a word-for-word repeat of the rejections set forth in paragraphs 13-18 of the Office Action mailed 6/20/01.

Claims 10, 12, 16 and 21 are rejected under 35 USC 102(b) as anticipated by each of Kipling *et al*, Stetter *et al*, Clerc, Taylor *et al*, WO 98/19153, and WO 97/21094. Claim 10, for example, as previously pointed out in Applicants' Amendment filed 9/24/01, sets forth:

"an apparatus for determining the trapping of pathogen by antibodies deposited in a fluidic channel", comprising:

1. "a fluidic channel having at least one pair of spaced electrodes therein";
2. "antibodies located on said spaced electrodes";
3. "means for producing an electric field across said spaced electrodes",  
and
4. "an impedance sensor for measuring impedance between said spaced electrodes".

Applicants are unable to find a teaching in each of the six (6) references of the four (4) features of Claim 1, as set forth above. Similarly, each of the specifically claimed features of independent Claim 15 are not found in these references. Where in each of these references is there taught that "said at least one pair of spaced electrodes is located on a surface of said fluidic channel" (Claim 12), or that the "at least one pair of spaced electrodes is formed within the fluidic channel?" 35 USC 102 requires each claimed feature be taught in the reference applied. The Examiner was called upon in Applicants' Amendment filed 9/24/01 to specifically identify where each claimed feature is taught in each reference, or withdraw these rejections. The Examiner has ignored this request except for the statements in paragraph 10.

The Examiner's "interpretation" of the term "fluidic channel, where the Examiner states:

"a fluidic channel is interpreted as meaning any surface on which a fluid can travel."

Under the Examiner's interpretation, a "fluidic channel" may constitute any flat surface on which a fluid can travel. Are not claim terms to be read in light of the art to which they relate? Here, a "fluidic channel" is recognized in the art as a groove, cutaway, etc. on a surface of a member through which a fluid flows, not merely a flat surface as interpreted by the Examiner.

Aside from the issue of the meaning of "a fluidic channel", Claim 10 as outlined above sets forth three(3) additional features not taught by any of these six applied references. The Examiner has failed to point out where any of these three (3) additional features are taught, but merely states that the references "do indeed disclose either one or a combination" of features. To support a rejection under 35 USC 102, each applied reference must teach each feature recited in the claims so rejected. Also, the Examiner states that "the references anticipated or render obvious the claims against which they were applied". There are no 35 USC 103 rejections of these claims on these six references, and therefore the "render obvious" statement is an incorrect response. Thus, the rejection of these claims on any of the six(6) applied references is improper and should be withdrawn.

Claims 13, 14, 15, 17-19 are also rejected under 35 USC 102 as anticipated by at least one of the above-referenced references. No teaching is found in any of these references of "a plurality of adjacent pairs of spaced electrodes" (Claim 13); "an interdigitated electrode" (Claims 17-18); and the "reference electrodes" as set forth in Claim 19. Thus, these applied references fail to teach each claimed feature as required to support a rejection under 35 USC 102, and these rejections should be withdrawn.

The 35 USC 103 Rejection


Claim 20 is rejected under 35 USC 103(a) as unpatentable over each of Taylor *et al*, WO 98/19153, and WO 97/21094. Claim 20 depends from Claim 16 and includes all the structural features of the parent claim. As pointed out above, each of these references fail to teach the features of parent Claim 16. The Examiner admits that these references fail to reach the features of parent Claim 16. The Examiner admits that these references fail to teach the features of Claim 20, but contends that such are obvious. If such "means for measuring impedance" is obvious as contented by the Examiner, such should be taught in the prior art, and thus the Examiner should cited prior art which teaches the features as set forth in Claim 20, or withdraw this ground of rejection.

Conclusion

Since the prior art cited by the Examiner fails to teach the features of Claims 10-21, and thus fails to support a rejection under 35 USC 102 or 35 USC 103. Non-elected Claims 1-9 have been cancelled. Thus, this application is in condition for allowance based on Claims 10-21.

Respectfully submitted,

Dated: 11-13-01

  
L.E. Carnahan  
Agent for Applicants  
Registration No. 20,555  
Tel. No. (925) 422-5024